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5 Attorney for Claimant
 6 ELISEO JIMENEZ

7 **UNITED STATES DISTRICT COURT**
 8 **SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,) Case No. 08-CV-0074(IEG)NLS
 11 Plaintiff,)
 12 vs.) **ANSWER TO COMPLAINT
 13 \$23,120.00 IN U.S. CURRENCY,) FOR FORFEITURE
 14 ONE 2007 CHEVROLET AVALANCHE)
 15 TRUCK, CA LICENSE NO. 8E38789,)
 16 VIN 3GNEC12J17G138443, ITS TOOLS)
 17 AND APPURTENANCES,)
 18 ONE 2003 AUDI QUATTRO SEDAN,)
 19 CA LICENSE NO. 5LKB440,)
 20 VIN WAULC68E73A197008, ITS TOOLS)
 21 AND APPURTENANCES,)
 22 \$1,200.00 IN U.S. CURRENCY,)
 23 Defendants.)**

24 COMES NOW the Claimant, ELISEO JIMENEZ, and in answer to Plaintiff's Complaint
 25 for Forfeiture, hereby responds, alleges, and otherwise pleads as follows:

26 1. Claimant denies each and every allegation set forth in Paragraph 1. of the
 27 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

28 2. Claimant denies each and every allegation set forth in Paragraph 2. of the
 29 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

30 3. Answering Paragraph 3. of the Complaint, Claimant has no information or belief

1 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
2 ground, denies each and every allegation contained therein in the conjunctive as well as the
3 disjunctive.

4 4. Answering Paragraph 4. of the Complaint, Claimant hereby incorporates his
5 responses to Paragraphs 1-3 herein as if fully repeated herein.

6 5. Claimant denies each and every allegation set forth in Paragraph 5. of the
7 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

8 6. Claimant denies each and every allegation set forth in Paragraph 6. of the
9 Complaint for Forfeiture in the conjunctive as well as the disjunctive..

10 7. Claimant denies each and every allegation set forth in Paragraph 7. of the
11 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

12 8. Answering Paragraph 8. of the Complaint, Claimant has no information or belief
13 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
14 ground, denies each and every allegation contained therein in the conjunctive as well as the
15 disjunctive.

16 9. Answering Paragraph 9. of the Complaint, Claimant hereby incorporates his
17 responses to Paragraphs 1-8 herein as if fully repeated herein.

18 10. Claimant denies each and every allegation set forth in Paragraph 10. of the
19 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

20 11. Claimant denies each and every allegation set forth in Paragraph 11. of the
21 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

22 12. Claimant denies each and every allegation set forth in Paragraph 12. of the
23 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

24 13. Answering Paragraph 13. of the Complaint, Claimant has no information or belief
25 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
26 ground, denies each and every allegation contained therein in the conjunctive as well as the
27 disjunctive.

28 14. Answering Paragraph 14. of the Complaint, Claimant has no information or belief

1 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
2 ground, denies each and every allegation contained therein in the conjunctive as well as the
3 disjunctive.

4 15. Answering Paragraph 15. of the Complaint, Claimant hereby incorporates his
5 responses to Paragraphs 1-14 herein as if fully repeated herein

6 16. Claimant denies each and every allegation set forth in Paragraph 16. of the
7 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

8 17. Claimant denies each and every allegation set forth in Paragraph 17.. of the
9 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

10 18. Claimant denies each and every allegation set forth in Paragraph 18. of the
11 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

12 19. Claimant denies each and every allegation set forth in Paragraph 19. of the
13 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

14 20. Answering Paragraph 20. of the Complaint, Claimant has no information or belief
15 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
16 ground, denies each and every allegation contained therein in the conjunctive as well as the
17 disjunctive.

18 21. Answering Paragraph 21. of the Complaint, Claimant has no information or belief
19 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
20 ground, denies each and every allegation contained therein in the conjunctive as well as the
21 disjunctive.

22 22. Answering Paragraph 4. of the Complaint, Claimant hereby incorporates his
23 responses to Paragraphs 1-21 herein as if fully repeated herein.

24 23. Claimant denies each and every allegation set forth in Paragraph 23. of the
25 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

26 24. Claimant denies each and every allegation set forth in Paragraph 24. of the
27 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

28 25. Claimant denies each and every allegation set forth in Paragraph 25. of the

1 Complaint for Forfeiture in the conjunctive as well as the disjunctive.

2 26. Answering Paragraph 26. of the Complaint, Claimant has no information or belief
3 sufficient to enable him to answer the allegations contained therein, and basing his denial on that
4 ground, denies each and every allegation contained therein in the conjunctive as well as the
5 disjunctive.

6 **AFFIRMATIVE DEFENSE(S)**

7 **FIRST AFFIRMATIVE DEFENSE**

8 For a further and separate answer to the Complaint, Claimant alleges the subject
9 Complaint as pled fails to state facts sufficient to constitute a cause of action against the
10 defendant property.

11 **SECOND AFFIRMATIVE DEFENSE**

12 For a further and separate answer to the Complaint, Claimant alleges plaintiff lacked
13 probable cause for the institution of this forfeiture action.

14 **THIRD AFFIRMATIVE DEFENSE**

15 For a further and separate answer to the Complaint, Claimant alleges that the forfeiture
16 in this case is disproportionate, and is a violation of the Eighth Amendment to the United States
17 Constitution.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 For a further and separate answer to the Complaint, Claimant alleges that the searches
20 which led to the seizure of the defendant currency and vehicles violated the Fourth Amendment
21 to the United States Constitution.

22 WHEREFORE, claimant prays for judgment as follows:

23 1. That the Complaint be dismissed with prejudice;
24 2. That the subject property be returned to Claimant;

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1 3. For reasonable attorney's fees herein and costs of suit; and
2 4. For such other and further relief as the Court may deem just.
3

4 DATED: March 3, 2008

5 /s/ Richard M. Barnett
6 RICHARD M. BARNETT, ESQ.
7 rmb-atty@pacbell.net

8 Attorney for Claimant
9 ELISEO JIMENEZ
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CERTIFICATE OF SERVICE

I, RICHARD M. BARNETT, do hereby state:

That I am a citizen of the United States, over the age of eighteen years, and not a party to the within action.

That my business address is 105 West F Street, 4th Floor, San Diego, California.

That on March 3, 2008, I have caused service of Answer to Complaint for Forfeiture on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies said party:

1. David McNees, Special Assistant U.S. Attorney, Attorney for Plaintiff.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 3rd day of March, 2008, at San Diego, California.

/s/ Richard M. Barnett
RICHARD M. BARNETT